

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 33 (Sub-No. 329X)]

Union Pacific Railroad Company—Abandonment Exemption—in Pima County, Ariz.

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon the remaining 1.6 miles of the Tucson South Main railroad line in Pima County, Ariz. (the Line). The Line extends between milepost 984.7 and milepost 986.3 in South Tucson, and traverses United States Postal Service Zip Codes 85701 and 85713.

UP states that the property underlying the Line is the subject of a state court condemnation action by Pima County. Pima Cty. v. Union Pac. R.R., No. CV2015-010983 (Super. Ct. Maricopa Cty. filed July 9, 2015). UP states that it has reached an agreement with Pima County whereby Pima County will acquire the property pursuant to its condemnation authority following consummation of the abandonment.

UP has certified that: (1) no local traffic has moved over the Line for at least two years; (2) there is no overhead traffic on the Line; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter),

49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will become effective on September 28, 2016, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),² and interim trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by September 8, 2016. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by September 19, 2016, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2(f)(25).

A copy of any petition filed with the Board should be sent to UP's representative:
Jeremy M. Berman, 1400 Douglas St., #1580, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void ab initio.

UP has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 2, 2016. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by UP's filing of a notice of consummation by August 29, 2017, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: August 29, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.